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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,235	12/17/2001	Kerry Bernstein	BUR9-2001-0178-US1	3714
29154	7590	09/08/2006	EXAMINER	
FREDERICK W. GIBB, III GIBB INTELLECTUAL PROPERTY LAW FIRM, LLC 2568-A RIVA ROAD SUITE 304 ANNAPOLIS, MD 21401			SAXENA, AKASH	
		ART UNIT		PAPER NUMBER
				2128

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)
	10/023,235	BERNSTEIN ET AL.
	Examiner Akash Saxena	Art Unit 2128
<i>--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i> THE REPLY FILED 15 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.		
<p>1. <input checked="" type="checkbox"/> The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</p> <p>a) <input type="checkbox"/> The period for reply expires _____ months from the mailing date of the final rejection.</p> <p>b) <input checked="" type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p> <p>Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</p> <p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>		
<p>NOTICE OF APPEAL</p> <p>2. <input type="checkbox"/> The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</p> <p>AMENDMENTS</p> <p>3. <input checked="" type="checkbox"/> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because</p> <p>(a) <input checked="" type="checkbox"/> They raise new issues that would require further consideration and/or search (see NOTE below);</p> <p>(b) <input type="checkbox"/> They raise the issue of new matter (see NOTE below);</p> <p>(c) <input type="checkbox"/> They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</p> <p>(d) <input type="checkbox"/> They present additional claims without canceling a corresponding number of finally rejected claims.</p> <p>NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).</p> <p>4. <input type="checkbox"/> The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).</p> <p>5. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____.</p> <p>6. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p> <p>7. <input checked="" type="checkbox"/> For purposes of appeal, the proposed amendment(s): a) <input checked="" type="checkbox"/> will not be entered, or b) <input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p> <p>The status of the claim(s) is (or will be) as follows:</p> <p>Claim(s) allowed: _____.</p> <p>Claim(s) objected to: _____.</p> <p>Claim(s) rejected: <u>1-40</u>.</p> <p>Claim(s) withdrawn from consideration: _____.</p> <p>AFFIDAVIT OR OTHER EVIDENCE</p> <p>8. <input type="checkbox"/> The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).</p> <p>9. <input type="checkbox"/> The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).</p> <p>10. <input type="checkbox"/> The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.</p> <p>REQUEST FOR RECONSIDERATION/OTHER</p> <p>11. <input checked="" type="checkbox"/> The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u></p> <p>12. <input type="checkbox"/> Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____</p> <p>13. <input type="checkbox"/> Other: _____.</p>		

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's amendments submitted on 15th August 2006 are also not entered as they would require further search and consideration in view of the remarks presented.

Regarding the applicant's arguments for premature finality, please see below.

Response to Request for Withdrawal of Premature Final rejection

Applicant has requested that finality of last office action is premature. Examiner respectfully disagrees with the applicant for the reasons provided below.

A. Response to New Grounds For Rejection Of Claim 23

MPEP 2144.03 states: D. Determine Whether the Next Office Action Should Be Made Final

If the examiner adds a reference in the next Office action after applicant's rebuttal, and the newly added reference is added only as directly corresponding evidence to support the prior common knowledge finding, and it does not result in a new issue or constitute a new ground of rejection, the Office action may be made final. If no amendments are made to the claims, the examiner must not rely on any other teachings in the reference if the rejection is made final. If the newly cited reference is added for reasons other than to support the prior common knowledge statement and a new ground of rejection is introduced by the examiner that is not necessitated by applicant's amendment of the claims, the rejection may not be made final. See MPEP § 706.07(a).

Firstly, claim 23 grounds of rejection and the rejection itself has not changed since first action on merit. Secondly, Examiner had stated that claim 23 recites similar limitations as claim 1. Limitations presented in claim 23 are a subset of claim 1 limitations. Even after modification to claim 1 (after 1st amendment) no new references were added to reject the amended claim 1, therefore claim 23 is also not rejected under the new grounds of rejection.

B. Claims 28 and 29 Not Re-examined

Claims 28 and 29 were never amended and were rejected originally in the first office action. Rejection for these claims was inadvertently omitted by examiner and is copied from the first office action as is (appended at the end).

C. Regarding Claims 1, 9, 14, 19, 24, 36 and 40

Applicant argues that Krivokapic (KR'527) does not discuss the "range bounds" and since the invention is complex the particular piece should be clearly explained. Examiner has states that "range bounds are also provided (Abstract: Lines 19-27; Col.8 Lines 50-63). "Range bounds" are taught in the cited portion as "guard bands" in the I/V curves and this cited portion would have been obvious to one designing I/V characteristics of the integrated circuit where the bounds of the I/V curves are assessed for worst case scenarios. Therefore examiner respectfully disagrees with applicant's argument that Krivokapic (KR'527) does not discuss the "range bounds".

D. Regarding Claim 9

Applicant has argued that claim 9 recites a "computer implemented method that comprises a designing step using a computer model that is created using a given target performance parameter of a given performance attribute", a feature not included in the "simulator" of independent claim 1. Examiner had rejected claim 9 on the similar basis as claim 1. Since the references are complex, this feature is not clearly shown.

Examiner respectfully disagrees that these limitations are not similar and asserts that they are taught by the same reference (HE'277: Col.4 Lines 61-67 - designing the model; Col.3 Line 67 - Col.4 Line 5 - performance parameter). It is well known to one of ordinary skill in the art of simulation that simulation of integrated circuit models is used design integrated circuits. The step of designing the model has to present when the model is being simulated. Examiner finds the applicant's argument unreasonable.

Claim rejections for claims 28 & 29 copied over from first action on merit.

Claims 28-29 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6269277 issued to Hershenson et al (HE'277 hereafter), in view of U.S. Patent No. 5,966,527 Krivokapic et al (KR'527 hereafter), further in view of U.S. Patent No. 6,028,994 issued to Peng et al (PE'994 hereafter).

Regarding Claim 28 & 29: Teaching of HE'277 & KR'527 are shown in claim 24 rejections above.

HE'277 & KR'527 do not teach design goals for product, developing product from target model and product model simulation & alteration based on feedback.

PE'994 teaches teach design goals for product (PE'994: Col.2 Line 49-59 - predicted performance), developing product from target model as combined product & device model represented by product performance model (PPM) (PE'994: Fig. 1; Col.6 Lines 57-67) and product model simulation & alteration based on feedback as self learning (PE'994: Fig.1 Step 64). The product is represented as package of wafer chip and the device is represented as wafer chip (PE'994: See Fig.1).

It would have been obvious to one (e.g. a designer) of ordinary skill in the art at the time the invention was made to apply the teachings of PE'994 to HE'277 & KR'527. The motivation to combine would have been that HE'277 & KR'527 and PE'994 are attempting to design a model that can mimic and or predict the performance of the semiconductor model (PE'994: Abstract; HE'277 & KR'527: Abstracts) based on the input parameters. Further, teaches PE'994 specifying the input parameters as ranges (PE'994: Fig.3 Col.5 Lines 35-48) for performance which is very similar to the KR'527 teachings disclosed before relating to ranges for performance parameters..

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